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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD  
EXCERPT  
AGENDA ITEM 7

JOE SERNA, JR., CALEPA BUILDING  
CENTRAL VALLEY AUDITORIUM  
1001 I STREET  
2ND FLOOR  
SACRAMENTO, CALIFORNIA

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JAMES F. PETERS, CSR, RPR  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Dan Eaton

Steven R. Jones

Jose Medina

Michael Paparian

David Roberti

STAFF

Terry Jordan, Deputy Executive Officer

Kathryn Tobias, Chief Counsel

Sara Avila

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Now, we go to the  
3 Executive, Administrative and Policy part of our agenda,  
4 number 7, which was revised -- I was looking for Ms.  
5 Packard. It's Ms. Jordan. Thank you.

6 DEPUTY DIRECTOR JORDAN: Thank you, Madam Chair.  
7 Good morning, Madam Chair and Board Members. I'm Terry  
8 Jordan with the Administration and Finance Division.

9 Item number 7 is Consideration of Approval of  
10 Selected Grant Scoring Criteria, Evaluation Methods and  
11 Processes for All Competitive Grant Programs.

12 This consideration item addresses a number of  
13 policy issues for all competitive grants. These include  
14 environmental justice requirements, a standard definition  
15 of Indian tribes, green procurement criterion, geographic  
16 distribution of funds, and tied scores funding.

17 Each of these issues has been previously  
18 addressed by members in separate competitive grant award  
19 items over the course of the past year or more. As such,  
20 the Administration and Finance Division program and legal  
21 staff felt it was time to bring forward this policy item  
22 to the Board for direction so that uniformity could be  
23 provided for all the Board administered competitive  
24 grants.

25 The Administration and Finance Division staff and

1 legal have worked collaboratively to develop this policy  
2 item.

3           However, there are still some differing opinions  
4 over the recommendations specifically on green procurement  
5 and geographic distribution that are to be presented  
6 today.

7           Program staff is present to speak to those  
8 concerns. This item will be presented by Sara Avila of  
9 the Grants Administration unit.

10           MS. AVILA: Good morning, Madam Chair and Board  
11 Members. My name is Sara Avila of the Grants  
12 Administration Unit. The Grant's Administration Unit was  
13 established to provide consistency and coordination among  
14 the various grant programs at the Board.

15           One of our responsibilities is to ensure that the  
16 grant scoring criteria and the evaluation methods and  
17 processes for the grant programs are uniformly  
18 implemented.

19           In September of 1996 the Grants Administration  
20 Unit recommended and the Board approved standardization of  
21 general review criteria for all competitive grant  
22 programs, and a procedure for presenting the criteria and  
23 evaluation process to the Board.

24           The approved criteria were needs, methodology,  
25 objectives, evaluation, budget and completeness. Then in

1 December of 1998, the Board approved the standardization  
2 process for all grant programs. This process included the  
3 implementation of a blind review to ensure scoring  
4 consistency, the requirement that the grantees return  
5 agreements in a timely manner, conditional award of grants  
6 to grantees without standing accounts receivable, the  
7 requirement that requests for time extensions be on a  
8 three-year term must be approved by the Board, and the  
9 implementation of a question and answer period during the  
10 grant application period.

11 We are before you today to get the Board's  
12 direction in several areas that have arisen since the last  
13 board adopted policy.

14 The first item is environmental justice. Prior  
15 to the October 2001 board meeting, the Board directed that  
16 environmental justice be considered in the grant process.  
17 Grant programs have been addressed in this issue in  
18 various ways shown on Attachment 1. Staff recommends that  
19 the Board formally direct that all competitive grant  
20 applications shall include an environmental justice  
21 certification, and there shall be an environmental justice  
22 provision in each grant agreement unless other wise  
23 directed by the Board.

24 The second item is indian tribes. The Board  
25 directed that Indian tribes be considered eligible for

1 certain grant funding. At the September 2001 Board  
2 meeting, staff presented a discussion item on cooperative  
3 agreements between the Board and California indian tribes.  
4 Since that time the Administration and Finance Division  
5 has worked closely with legal and we are recommending a  
6 standardized definition of indian tribes. In recognition  
7 of the unique governmental structure of indian tribes and  
8 in an attempt to provide for full inclusion of indian  
9 tribes in board grants where appropriate, it is  
10 recommended that the Board approve two definitions.

11           Staff recommends the Board adopt for grant  
12 eligibility purposes the following standardized definition  
13 for grant -- for indian tribes. Indian tribes means an  
14 indian tribe, band, nation or other organized group or  
15 community residing within the borders of California, which  
16 is recognized as eligible for special programs and  
17 services provided by the United States to indians because  
18 of their status as indians and which meets the criteria of  
19 the grant program.

20           The second definition for indian tribes means an  
21 indian tribe, band, nation or other organized group or  
22 community residing within the borders of California, which  
23 can establish that it is a governmental entity and which  
24 meets the criteria of the grant program.

25           The third item is green procurement. The Board

1 approved the in-house waste reduction and recycled content  
2 pilot procurement policy Resolution 1999-157, which  
3 requires all contractors and grantees to report on the  
4 recycled content of their purchases. This issue has been  
5 addressed in the terms and conditions for the various  
6 grant programs.

7               Next month, the Waste Prevention and Market  
8 Development Division will be presenting the item on  
9 recycled product procurement policies for contracts,  
10 grants, and other Board funded purchasing.

11              At their December 1999 meeting, the Board  
12 discussed the concept that 50 percent of the general  
13 review criteria be allocated for evidence that applicant  
14 has a current green procurement policy at the time of  
15 submittal of the application.

16              Since there was no formal action on this  
17 suggestion, the various grant programs have been  
18 inconsistent incorporating the green procurement scoring  
19 points into their criteria.

20              Currently, the green procurement scoring criteria  
21 points vary among grant programs anywhere from zero to 15  
22 points.

23              BOARD MEMBER ROBERTI: Madam Chair?

24              CHAIRPERSON MOULTON-PATTERSON: Senator.

25              BOARD MEMBER ROBERTI: I thought it was very

1 clear two years ago that we set to have a green  
2 procurement policy. Now, you're saying some of the  
3 programs are at zero.

4 MS. AVILA: Yes.

5 BOARD MEMBER ROBERTI: That seems to be contrary  
6 to the Board direction.

7 DEPUTY DIRECTOR JORDAN: Senator, we have a green  
8 procurement policy. It's the points that were applied to  
9 the actual scoring criteria.

10 BOARD MEMBER ROBERTI: If you don't apply any  
11 points to the bids, then there's no policy, at least along  
12 the lines of what the Board had directed, and that was to  
13 apply points.

14 CHAIRPERSON MOULTON-PATTERSON: I thought we had  
15 set 15 percent.

16 BOARD MEMBER ROBERTI: That was two years ago.

17 DEPUTY DIRECTOR JORDAN: Within the application  
18 scoring criteria, it has been inconsistent. Within the  
19 actual terms and conditions, they have required that they  
20 have a policy and they certify as such.

21 BOARD MEMBER ROBERTI: I don't quite understand.

22 DEPUTY DIRECTOR JORDAN: In the application  
23 process, the criteria requires certain things, and  
24 obviously one of the issues here is that there be  
25 incorporated a range or a certain percentage for the



1 applicants to meet when they've applied.

2               When they actually receive an award, there's a  
3 requirement in the terms and conditions of their grant  
4 that makes them comply with having a policy and certifying  
5 as such.

6               BOARD MEMBER ROBERTI: And I'm going to  
7 paraphrase, and I don't want to seem sarcastic, but I'm  
8 trying to paraphrase. That means that in some cases there  
9 is no 15 percent or 15 point markup, adjustment, whatever  
10 we want to call it, but they have to sign something to be  
11 good boys and girls afterwards?

12              DEPUTY DIRECTOR JORDAN: That's correct.

13              BOARD MEMBER ROBERTI: That's nothing. That's  
14 nothing. And it is totally contrary to the Board  
15 directive of two years ago. And if there was a problem,  
16 staff should have come back to us and said, hey, there's a  
17 problem in implementing it. The problem is not only on  
18 green procurement, but it's on the whole staff  
19 relationship to the Board.

20              I mean it takes forever to do something, forever,  
21 even when the Board gives a directive. Now, I can  
22 understand sometimes we are straight jacketed into rules  
23 beyond our control, but in this case, two years ago, 23  
24 months. This is the November meeting of '01, that was the  
25 December meeting of '99. Any reasonable Board Member

1 would have been left with the belief that somehow our  
2 directive was going to be implemented.

3 Now, we're told that some of the programs  
4 unbeknownst, I would say, to any Member of the Board,  
5 certainly unbeknownst to me, wasn't implemented. You know  
6 some were, some weren't based on findings that I don't  
7 know what they are as to what the problems that the staff  
8 had in implementing it.

9 That's 23 months ago. So it's two problems, the  
10 green procurement, and it's for us somehow to put some  
11 dynamite under our seats and get us moving.

12 Madam Chair, I was speaking about our terms. You  
13 know my term is up at the end of this next year, so who  
14 knows what happens. I'm not complaining or lamenting  
15 about that. What I am saying is that wouldn't it be nice  
16 if in our life times something could be implemented even  
17 in those cases where you started early. And we're still  
18 waiting and waiting and waiting and not told by staff that  
19 there was a problem, if there was a problem, and I can't  
20 imagine what it was.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
22 Senator. And I do remember the 15 percent. I believe,  
23 Mr. Eaton -- would you like to speak to that, Mr. Eaton?

24 BOARD MEMBER EATON: No, I think Senator Roberti  
25 laid it out quite concisely.

1                   CHAIRPERSON MOULTON-PATTERSON: So I hope in the  
2 future we'll have that, and I agree it's taken a long  
3 time.

4                   BOARD MEMBER EATON: The one thing is, just so  
5 we're clear, so this green procurement policy you're  
6 proposing a range, because the direction that was  
7 originally given was the 15 points to begin with. I don't  
8 believe it was a range, and I think that is spelled out as  
9 well. So do you need clarification that it's 15 points  
10 and no range?

11                  DEPUTY DIRECTOR JORDAN: Well, that's why we  
12 brought the item before you today. Actually, what was  
13 discussed in '99 was 15 percent. And because it does  
14 vary, we chose to bring it forward in agreement with the  
15 program.

16                  What was not in agreement was how it impacts the  
17 actual grant subscription or grant administration as far  
18 as the grantees, and that I believe that there are certain  
19 programs from the discussions because we've had several  
20 months worth of discussions that because of that impact we  
21 do prefer that there is a range instead of an automatic 15  
22 percent and simply just, sort of, take the first steps in  
23 making sure that it can be accomplished by some of the  
24 smaller grant programs.

25                  BOARD MEMBER EATON: Give an example of some

1 impacts, because those would have been things we would  
2 have liked to have known. I mean, saying that you didn't  
3 have enough applicants, but anytime you put a criteria,  
4 look at all the other criteria that you adhere to. You're  
5 going to have applicants that are out -- the whole idea of  
6 the policy that was put there is because there's two sides  
7 to this equation.

8               There's the waste side and disposal and  
9 diversion. There's also the side of procurement, which  
10 then encourages everyone, all of our stakeholders, all of  
11 our cities and counties, everyone else, environmental,  
12 business communities, purchase those goods, so there's a  
13 market. The markets have been the real problem. So that  
14 was one of the sort of penal provisions put in there, so  
15 that people would have at least a little bite to get them  
16 moving and the carrot and a stick.

17               Now, we've just added more to it. And, yes, it  
18 is difficult getting money sometimes out the door, I grant  
19 you that. What the problem happens to be is that there  
20 are moneys available, and that those organizations just  
21 have to make a good faith effort to get a green  
22 procurement policy.

23               And who are they?

24               Sometimes the people who get the most dollars and  
25 cents are the worst abusers, regardless of size. And

1 that's really what we should ferret out here when you put  
2 these kinds of hurdles in. You want the money, you want  
3 to do the right thing, this is the way you do it.

4           So I mean, I don't see that there has been a  
5 tremendous impact of money going out. I mean, we've  
6 always had a number of scoring criteria and I haven't seen  
7 any. The only one that's undersubscribed, I believe, has  
8 been one in the recent months that's come before us.

9           CHAIRPERSON MOULTON-PATTERSON: I know Mr. Medina  
10 and then Mr. Paparian want to speak, but I just wanted to  
11 say on that point, I think even if it means they don't get  
12 a grant, we need to send that strong message.

13           Mr. Medina.

14           BOARD MEMBER MEDINA: Thank you, Madam Chair.  
15 And I thought that the Senator's point was well taken.  
16 And I had a question in this follow-up to Mr. Eaton, and  
17 that was whether what is being produced here was  
18 consistent with previous board policy on green  
19 procurement? And also could we get a written copy of what  
20 the previous board policy on what green procurement was?

21           And then further, I'm confident that our new  
22 director, Mr. Leary, will see to it that implemented board  
23 policy is executed posthaste.

24           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
25 Medina.

1           Mr. Paparian and then Senator Roberti.

2           BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

3 Looking at the resolution itself, I think I have a  
4 suggestion that I hope will take us forward.

5           On the revised resolution on the back page of  
6 that, Item C refers to green procurement and the  
7 percentage value. My suggestion would be to revise that  
8 and have it be not just 15 percent of the general review  
9 scoring criteria, but 15 percent of the total points  
10 available, including general review and program criteria.

11           I think that would actually evaluate more  
12 appropriately and more consistently with what the Board  
13 suggests. So that the C would read "The evaluation  
14 criteria and evidence of a green procurement policy shall  
15 be valued at 15 percent of the total points available,  
16 including general review and program criteria. Any  
17 deviation of the 15 percent evaluation would require Board  
18 approval at the time of the general review scoring  
19 criteria and evaluation process agenda item is presented."

20           BOARD MEMBER EATON: But, at that point, you  
21 could still do what has been the past practice and not get  
22 anything in the application process as long as you had a  
23 green procurement policy after the fact, and you had 15  
24 percent of your total. That's exactly what they're  
25 proposing.

1               BOARD MEMBER PAPARIAN: I'm very open to fixing  
2 that.

3               BOARD MEMBER EATON: I hear you. I understand  
4 where you're trying to go, but the total points goes to  
5 using the hurdle, the application process plus what  
6 happens after the fact. The points that were raised this  
7 morning by the Senator and the Chair and myself and others  
8 is that it also has to be part of the hurdle to begin with  
9 to get into the gate.

10              And so I think you're on the right track, we just  
11 have to find the right language that puts it in place so  
12 that we don't get a situation wherein we put something in  
13 a resolution which you can meet that percentage, but still  
14 not have to go through the hurdle of having the green  
15 procurement policy at the front end.

16              So I think you're going there. The total points,  
17 see there's an A and a B here if I understand the  
18 contract. The A part is the general use scoring criteria  
19 and then afterwards there's the actual award. With 15  
20 points, you could meet the actual award, but not have  
21 anything to do with the scoring criteria and still be  
22 eligible without -- with a green procurement policy.

23              So I know that that's not what you want to do,  
24 but that's how we've got to try and simplify it a little  
25 bit.

1                   BOARD MEMBER PAPARIAN: So what I would suggest  
2 solves part of the problem. You're comfortable with  
3 what --

4                   BOARD MEMBER EATON: Absolutely, it's there.  
5 There's not a question. We've got to solve the front-end  
6 of the equation and that's what the issues that have been  
7 raised are, and that would be the 15 percent.

8                   SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
9 Madam Chair, may I make a comment here?

10                  CHAIRPERSON MOULTON-PATTERSON: Yes.

11                  SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
12 Martha Gildart with the Special Waste Division. In the  
13 grant items that we've brought forward for the Board  
14 consideration with the criteria, the general criteria have  
15 always had points assigned program by program to be  
16 tailored to the needs of that program. I think Mr. Eaton  
17 referred to one of the grants that was brought forward  
18 this year that was undersubscribed, and that is a waste  
19 tire enforcement grant as well as the waste tire cleanup  
20 grants.

21                  We find it difficult sometimes to bring in, you  
22 know, applicants, many of them expressed concerns over the  
23 difficulty of completing the applications.

24                  We've also in past years, but not this year, had  
25 our playground accessibility grant, which was the exact



1 opposite problem where there was a tremendously high  
2 subscription rate, but the applicants themselves were  
3 often members of like PTAs, parent associations,  
4 individuals who either don't have access to a governmental  
5 entity that can make a decision and vote on adopting a  
6 green procurement policy or the cleanup grants we've given  
7 to counties and entities to solve an immediate problem.

8           So the staff is assigning a variety of point  
9 levels to that criterion to help those applications, those  
10 grant programs fit better. I think we have some real  
11 concerns if we had a set, you know, 15 percent of the  
12 total point scores.

13           What that typically means, most of our grants  
14 have a 70 percent pass/fail cutoff, that that would leave  
15 only another 15 percent of any errors in any of their  
16 need, their budget, their other, indian tribes, border  
17 organizations, they'd just have to lose 15 percent in  
18 those other categories to fail. And I think the idea of  
19 having a variety of points assigned to this criterion  
20 allows us to reflect the different needs of the different  
21 programs.

22           CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
23 Gildart.

24           Senator Roberti was next.

25           BOARD MEMBER ROBERTI: You know, not just to

1 belabor a past point, because this current debate is very  
2 important. However, what we're currently discussing is  
3 the only legitimate bone of contention that could possibly  
4 have arisen as to any confusion as to what the Board's  
5 directive was.

6           And while I want to say that is simply because  
7 these points should have been therefore brought to us as  
8 soon as there was a distinction that had to be made as  
9 between, I guess, the general criterion and the extra  
10 points that are added on afterwards. And I don't  
11 understand why it took so long to get that point, which  
12 Ms. Gildart is now explaining to us, before the Board.

13           And I'm just raising it because in the future, I  
14 mean, when a problem arises on the interpretation of how  
15 an award is going to be made, it should come to us a lot  
16 quicker. We've had two years of grants in which, you  
17 know, everybody blithely, I'm sure, believed that the  
18 award was being implemented, but obviously there was this  
19 small point that wasn't brought to the Board for directive  
20 intention.

21           And I understand the importance of it, but I just  
22 am confused why Ms. Gildart's point, which is important,  
23 wasn't brought to us 20 months ago rather than now. I'm  
24 so glad the discussion is taking place. I'm almost  
25 willing to vote for it in the general criteria or as an

1 award just, I mean just to get the thing off on the road,  
2 but I think we should decide it today.

3 BOARD MEMBER JONES: Madam Chair.

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

5 BOARD MEMBER JONES: Thanks, Madam Chair. I have  
6 no problem with this agenda item the way it's coming  
7 forward. I think one thing that we have to -- I think  
8 what Ms. Gildart brought up, every time we see a scope of  
9 work, I mean this has not been a mystery, every scope of  
10 work that has come forward at this Board since I've been  
11 here includes a scoring criteria.

12 And there were some discussions on some of these  
13 items. Remember we took it from five points up to ten  
14 points or something on one, because it needed to have more  
15 of an impact. There were others that we left alone.  
16 There were some that because the total score could only be  
17 100 as opposed to 120, there was an issue with what the  
18 numbers should be.

19 So I think we've seen every criteria of every  
20 grant of every contract that's ever come out, and we've  
21 approved them. So clearly it was not a mystery.

22 But I'm what I'm worried about is to arbitrarily  
23 say 15 percent on some -- while a green procurement policy  
24 is important, and I've supported it all the way through,  
25 we've got to look at what these grants are. If you get

1 someone that's going to haul tires from a cleanup spot,  
2 the fact that that person buys recycled paper is important  
3 to an overall issue. But what other stuff would that  
4 vendor buy that could be listed, with the exception of all  
5 of this equipment which is made out of metal, which is  
6 already recycled?

7               So do you give them credit for a tub grinder or a  
8 tire shredder that weighs 45,000 pounds as green  
9 procurement. It's all recycled steel.

10              And all I'm saying is I think we need to have the  
11 ability and staff needs to have the ability to make sure  
12 that -- I always liked our green procurement policy  
13 because it had a little variation.

14              If we need someone with good expertise to do a  
15 job and they don't have a green procurement policy and  
16 we're going to settle for the third or fourth person on  
17 the rung, because they've got a full-blown green  
18 procurement policy, because we've decided that everything  
19 has to be 15 percent, we need to look at that. I mean, 15  
20 percent of 100 is 15 points.

21              I'd rather make sure that there was some  
22 flexibility there, that we're getting qualified people, as  
23 opposed to those people that are just buying certain  
24 products or including metal, because it's clearly  
25 recycled.

1               BOARD MEMBER EATON: But Mr. Jones, that belays  
2 the fact that if that were the case, then you couldn't  
3 meet the second criteria by which our staff was applying  
4 it, that somehow they had a green procurement policy after  
5 the fact. So that wouldn't solve your concern. And it is  
6 valid in some of the programs.

7               But if you say that you can't, sort of, eliminate  
8 them at the front end, but you can approve them at the  
9 back end, if they don't have any policy at the back end,  
10 then they shouldn't get the contract in the first place  
11 because they were in violation of the grant, so you don't  
12 solve it.

13              BOARD MEMBER JONES: I don't have a problem with  
14 you striking that they put in afterwards, but I want us to  
15 understand that not all grants are 100 points, some are  
16 70, some are 80, some are 90.

17              BOARD MEMBER EATON: And what I think is, at  
18 least from my preference, is that it's incumbent upon -- I  
19 mean where applicable the staff apply that criteria. And  
20 if not, then it ought to be brought to the Board's  
21 attention why it can't be done in a particular grant  
22 program.

23              But as a general rule, it should be applied, and  
24 if there is a problem, you know, there are certain of  
25 those grants that it can be, then it should be the Board

1 who can at least come up with some sort of criteria or  
2 alternative.

3 For instance, if it's tires, then perhaps maybe  
4 we award more points for using it in a diversionary role  
5 and not burying the tires. But that is a form of somehow,  
6 you know, in keeping with our hierarchy. And that's the  
7 problem I think that we find with the green procurement  
8 and the others and it's so slow and we've got this going  
9 around.

10 So I think the general rule is green procurement.  
11 In the absence of that, they have to bring it forward and  
12 make a justification in the affirmative as to why it can't  
13 include it in the criteria. And that's at the front end.  
14 That's what I'm trying to get at.

15 BOARD MEMBER JONES: I've got no problems with  
16 that.

17 CHAIRPERSON MOULTON-PATTERSON: I Agree.

18 Mr. Paparian.

19 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
20 Mr. Jones, I think, if you look at the language in C, I  
21 think it may address the concerns that you've raised and  
22 it also, at the same time, I think, may address what  
23 Senator Roberti has raised.

24 The second sentence here says, "Any deviation  
25 from the 15 percent variation would require Board approval

1 at the time that the general review scoring criterion  
2 evaluation process agenda item is presented."

3 If there was a legitimate reason, it would  
4 require board action which takes care of Senator Roberti's  
5 concern that this sort of decision making should be made  
6 at the Board level. If there's a legitimate reason for  
7 the deviation or alteration, I think the Board could do  
8 that and I think that would address your concern.

9 BOARD MEMBER JONES: Madam Chair.

10 CHAIRPERSON MOULTON-PATTERSON: Yes, Mr. Jones.

11 BOARD MEMBER JONES: I agree with you. I have no  
12 problem with giving the staff the direction that all these  
13 grants should include 15 percent, unless there is an  
14 issue, and they bring it forward. All I'm saying is,  
15 while they may not have followed the 15 percent, every  
16 grant or contract that has gone out from this Board as  
17 long as I've been here, has had a scoring criteria  
18 attached to it. And those numbers have changed.

19 So I have no problem with setting that as a  
20 guideline, and just having them highlight when there needs  
21 to be a change, that doesn't bother me. And I have no  
22 problem with Mr. Eaton's issue of scratch the -- they've  
23 got to have a policy in place on the front end as opposed  
24 to after the contract has been let, is that basically --

25 BOARD MEMBER EATON: No. I mean that's after the

1 fact. That's the problem we're trying to get at is after  
2 the fact. I'm just saying you said well, if you eliminate  
3 the front, we may not get the best contractor. Well, the  
4 policy has been is that after the fact we've awarded it,  
5 they still don't have a policy and that's in violation of  
6 our own grant criteria.

7               So now we're in a situation where we may have  
8 granted monies that are not in keeping with our own  
9 policy. I think perhaps maybe I can help suggest on this  
10 issue of green procurement and leave the other issues in  
11 other sections, is that maybe what we do is that the issue  
12 is that we can award 15 percent on the front end of the  
13 application process, and if there is a circumstance where  
14 green procurement policy is not applicable, then there  
15 needs to be an explanation on that application. And then  
16 at the time that it is brought forward to the Board, we  
17 would have the opportunity to view that in that context.

18               And that's really what you are talking about,  
19 you're talking about context. And then afterwards, I  
20 think Mr. Paparian's point of 15 -- I think 15, was it,  
21 percent of the total points thereafter would then be  
22 applicable on that second phase in the award. And  
23 therefore we would have the screening process at the  
24 beginning, which has some flexibility in it as well as the  
25 subsequent Mr. Paparian talked about.



1 CHIEF COUNSEL TOBIAS: Madam Chair, may I ask a  
2 question on that. I didn't quite understand Mr. Eaton.  
3 Were you suggesting that those applications would come up  
4 to the Board to have the Board look at the individual  
5 applications as to why or why not they couldn't comply  
6 with the green procurement.

7 BOARD MEMBER EATON: First, they have to come to  
8 us in the beginning, do they not, before they're ever sent  
9 out with the scoring?

10 CHIEF COUNSEL TOBIAS: And the criteria, right.

11 BOARD MEMBER EATON: So that's what I'm saying.  
12 You can't do it subsequent to the fact, I understand that.  
13 But at the beginning when they come to us and they tell us  
14 here's going to be the scoring criteria for this grant and  
15 this grant, and this grant, that as a general -- and the  
16 criteria for green procurement at 15 percent is  
17 applicable. Thereafter, the award that's suggested is 15  
18 points of the total allowable. But if for some reason  
19 that the grant cannot contain this or any other provision,  
20 don't forget we have other provisions as well.

21 We could have a rural grant program that may or  
22 may not be able to go to southern California, so that's  
23 another issue that you come in with flexibility that you  
24 just build into those programs.

25 But I think the point that the senator was

1 raising, and I agree with him on this, is we, as a board,  
2 have to know that at the time it's happening, not six  
3 months, a year or a year and a half after that fact. That  
4 doesn't help us in the situation.

5               So this would be a way to bring to the Board's  
6 attention almost like we do when we seek cost recovery  
7 under our 2136 Program and staff has to come forward and  
8 justify why we're waiving that provision for cost  
9 recovery. And this would be a situation where the staff  
10 would have to say we don't believe green procurement is  
11 possible or obtainable in these circumstances because of  
12 the following reasons. And then the Board would decide  
13 and the grant could go forward. I think that's where  
14 we're all trying to get to.

15               CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

16               BOARD MEMBER MEDINA: Madam Chair, as much as I  
17 would like to see this voted on this morning, I'd like to  
18 recommend that we defer it until the afternoon such that  
19 we can get a copy of the existing green procurement  
20 policy, and also so that we can work out some appropriate  
21 language on C under this resolution.

22               CHAIRPERSON MOULTON-PATTERSON: Okay. So if it's  
23 agreeable with everyone, we'll trail 7 till this  
24 afternoon.

25               BOARD MEMBER EATON: Madam Chair, while we're

1 doing that, we might as well get rid of the other couple  
2 remaining issues on 7 in case there's any of that.

3           The other issue I wanted to bring was tied  
4 scores. And I want to bring to the Board's attention,  
5 we've had those situations and I keep going back, but we  
6 had the Santa Cruz issue if you remember, where we had  
7 several awards. Now, those weren't ties.

8           I believe it's incumbent upon we, as board  
9 members and policymakers here, to make the determination  
10 if there's ties and see what we can do to get the monies,  
11 the two entities or three entities that are tied,  
12 irrespective of that. I mean, I think that's our role.

13           And further more, if we need to go back to the  
14 budget subcommittee and say we feel these are strong, find  
15 the money, that's what we ought to be able to do, instead  
16 of having a random, sort of, selection. I mean, you  
17 know -- but that would be just a suggestion that we keep  
18 the policy that in case of a tie, it should come to the  
19 Board and the Board will seek to do what it can do to fund  
20 it.

21           CHAIRPERSON MOULTON-PATTERSON: And that can be  
22 in our language.

23           BOARD MEMBER EATON: Yeah, I think so. I mean,  
24 it was an alternative to determine tied scores receive an  
25 award or both. I mean that's kind of how we've always

1    tried to find money to do those.  I mean, they may be  
2    programs that are time limits.

3               CHAIRPERSON MOULTON-PATTERSON:  Maybe you can  
4    work on some language on that.

5               I did want to say before we trail it, you know,  
6    the staff has really been good about letting us know.  A  
7    good example of that is the CalPoly project.  They  
8    originally were going to use green materials and staff let  
9    us know, alerted us to the fact that they weren't using  
10   it.  So the subcommittee recommended that we say no to the  
11   grants.  So we do appreciate that.

12              We will trail 7 until this afternoon.  And thank  
13   you, Ms. Avila.

14              BOARD MEMBER EATON:  Just so there's no surprise,  
15   Madam Chair, the same thing if we could get flexibility  
16   into the geographic distribution in case some of those  
17   awards deal with rural our farm and ranch type programs,  
18   there may not be a geographic distribution that's  
19   appropriate, so that we can get them all around.  And I  
20   think we can get that as a screening criteria that would  
21   not be injurious to what the intent is here, but rather  
22   one that, if it's applicable, sometimes a farm and ranch  
23   may or may not apply.

24              CHAIRPERSON MOULTON-PATTERSON:  Okay, if that's  
25   agreeable to everyone, we'll take this up later this

1 afternoon and hopefully we can work this out.

2 (Thereupon the item was recessed until  
3 the afternoon)

4 CHAIRPERSON MOULTON-PATTERSON: Okay, thank you.  
5 As many you know that were here this morning, we did trail  
6 Item number 7 to the end of the meeting, and we've gotten  
7 some revised language on it, but I also have a speaker's  
8 slip, but I'll turn it over to you, Ms. Jordan, and then  
9 to Ms. Avila.

10 DEPUTY DIRECTOR JORDAN: Yes, thank you. Good  
11 afternoon, again. Madam Chair and Board Members, Terry  
12 Jordan with the Executive, Administration and Finance  
13 Division returning for further discussion on Item 7,  
14 Consideration of Approval of Selected Grant Scoring  
15 Criteria, Evaluation Methods and Processes for all  
16 Competitive Grant Programs.

17 As requested this morning, Members have been  
18 provided with a copy of the June 9th, 1999 Board adopted  
19 Resolution number 1999-157, revised, to address the  
20 Integrated Waste Management Board's in-house waste  
21 reduction and recycled content and product procurement  
22 policy.

23 The policy does address grant programs. The  
24 third bullet from the bottom with regards to, "Where  
25 appropriate and feasible, the Board shall require grant

1 recipients to use recycled content, recyclable or reusable  
2 products or practice other waste reduction efforts" or  
3 "measures," excuse me.

4 That being said, staff has amended the resolution  
5 for Item 7 number 2001-464 to reflect the revisions not  
6 previously incorporated and to address the Board's  
7 discussion this morning on green procurement, geographic  
8 distribution and tied scores. And I believe those have  
9 been distributed also.

10 Revisions to those areas or the resolution  
11 include setting a standard with consideration for  
12 flexibility by the Board for program staff to address the  
13 variety of program requirements and subscription of grant  
14 programs.

15 The changes include language also that requires  
16 that staff present justification at the time the scoring  
17 criteria and evaluation process is brought to the Board  
18 for approval. Sara Avila will continue to present the  
19 other items that we didn't finish on number 7.

20 MS. AVILA: Sara Avila with the Financial and  
21 Assistant Branch.

22 The third item, the green procurement, what we're  
23 going to recommend for the new recommendations for the  
24 green procurement is the Board grant scoring criteria form  
25 shall be revised to reflect the green procurement policy.

1           The evaluation criterion, evidence that a green  
2 procurement policy should be valued at 15 percent of the  
3 total points used to determine eligibility, whether that  
4 determination is made solely upon the general review and  
5 scoring criteria, a combination of the general review and  
6 scoring criteria, and program scoring criteria or any  
7 other methods used by board staff.

8           Any deviation of the 15 percent evaluation would  
9 require Board approval at the time the criteria and  
10 evaluation process agenda item is presented. Staff shall  
11 describe any proposed deviation from this requirement in  
12 the agenda item and verbally during the presentation of  
13 the item requesting board approval of the scoring criteria  
14 and evaluation process.

15           The fourth item is geographic distribution of  
16 funds. Where grant programs have not received sufficient  
17 applications to support the geographic distribution of  
18 funds, then the most qualified applicants, regardless of  
19 vocation, will be funded. On occasion, the Board directed  
20 applications be divided and awarded based on the  
21 Department of Finance's figures on the geographic  
22 distribution of the State's population.

23           Staff recommends the Board direct staff to award  
24 grants to the highest ranking proposals based upon the  
25 geographic distribution of State's population as

1 determined by the Board approved general review evaluation  
2 criteria process.

3           If approved by the Board, staff will use the most  
4 current Department of Finance estimated population  
5 figures. If grant staff believes that the fundamental  
6 purpose of the grant would not be served by the geographic  
7 distribution, then grant staff must present justification  
8 at the time the scoring criteria and evaluation process is  
9 presented to the Board for approval.

10           The last item is tied scores. All proposals are  
11 ranked according to the total number of evaluation points  
12 received. On occasion, grant requests among applicants  
13 with tied scores exceeding the remaining funding can be  
14 available. Grant staff part of the scoring criteria and  
15 evaluation process have requested Board approval for a  
16 random number generation system to pit the applicants for  
17 funding.

18           Another method which has proven effective has  
19 been for the Board to divide the remaining funds among the  
20 tied applicants. As an alternative to these processes, it  
21 was suggested at the August 2001 board meeting that in the  
22 event of a tied score, the Board should determine how the  
23 remaining funds should be distributed.

24           Staff recommends at the time program staff brings  
25 this scoring criteria and evaluation process forward for



1 approval, the Board will determine how tied scores will be  
2 broken. Where grant requests among applicants and tied  
3 scores exceed funding availability, the ties shall be  
4 brought forward to the Board in an agenda item and the  
5 Board shall make the determination of which applicant  
6 shall receive the award, as long as staff has made the  
7 determination that the scaling down of the proposed  
8 projects resulting in decreased grant requests could not  
9 be accomplished successfully.

10 This concludes my presentation.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.  
12 Avila. And I apologize for having to break your  
13 presentation in two. We appreciate you coming back this  
14 afternoon.

15 Any questions or comments before the speakers,  
16 one speaker?

17 Mr. Eaton.

18 BOARD MEMBER EATON: I just have one question  
19 with regard to tied scores. At the time program staff  
20 brings the scoring criteria and evaluation process  
21 forward, isn't that where we are right today? We're  
22 trying to set up the criteria, are we not, the scoring  
23 criteria? So today is the day we have to determine how  
24 the ties are being broken under this language.

25 DEPUTY DIRECTOR JORDAN: What we're --

1               BOARD MEMBER EATON: It says right here, aren't  
2 we talking about scoring criteria today?

3               DEPUTY DIRECTOR JORDAN: Yes, we are.

4               BOARD MEMBER EATON: So today we have to  
5 determine how the ties are going to be broken under this  
6 language.

7               CHIEF COUNSEL TOBIAS: May I try to answer?

8               BOARD MEMBER EATON: Let me just finish here,  
9 Counsel. You know, we had it right when we talked this  
10 morning. This is an issue, you don't have to complicate  
11 it with the process. This is a very fair issue that I  
12 believe that we, as six board members, can make up our own  
13 minds. This is simply that if you have 15 successful  
14 applicants who have a passing score and there's limited  
15 amount of funds, then we as a board ought to be able to  
16 determine it because the grants are up to \$25,000 or up to  
17 \$50,000.

18              We ought to be able to make a determination, the  
19 six of us, as to how we think fairly and equitably these  
20 funds ought to be distributed, based upon if they receive  
21 a passing score. We do not need to get into a situation  
22 where the process is submerged within the bureaucracy.  
23 It's the sunshine process, and the sunshine process says  
24 if there's ties or it's only your recommendation as to  
25 what should we fund it at what level, then we as a board,

1 which we've done successfully in the past, try to reach  
2 some accommodation on what programs are worth it.

3 I mean, we did it with regard to the issue in  
4 Santa Cruz. We've done it with the issues with Oil and  
5 Tire. I don't think we have to complicate it. The issue  
6 is is that there's ties and passing scores. It's up to  
7 the Board to determine how the funds should be distributed  
8 and under what is an equitable manner.

9 That is not a process by which can be challenged.  
10 In fact, if anything, it's a much more open process,  
11 because it would be done in a public forum not with some  
12 sort of scoring criteria made up of individuals who are  
13 faceless.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
15 Eaton.

16 Ms. Tobias.

17 CHIEF COUNSEL TOBIAS: I think just to try to  
18 clarify the purpose of this board agenda item is to set  
19 out some policies that will apply to the criteria that are  
20 important. On each grant that comes forward, we always  
21 set out different levels or different types of criteria.  
22 So what this particular item is saying is that when each  
23 one comes forward, staff would, at that time, bring it  
24 forward, and these would be discussed.

25 So I wasn't sure that I quite understood what you

1 said on the last one, Mr. Eaton, that these would come  
2 forward.

3           The other point that I'd bring up that the legal  
4 office feels on this issue of the ties is that if the  
5 Board does want to decide ties, we feel that the criteria  
6 that you're going to use to decide those ties would need  
7 to be set out at the beginning when you decide these  
8 criteria. Otherwise, the applicants in the processes  
9 really have no way of knowing what that final  
10 determination might be in terms of what things might turn  
11 on.

12           So what we are trying to do is set out a process  
13 in this full agenda item that is fair, is equitable, that  
14 the applicants have as much information as possible, that  
15 the Board has a maximum ability to set out the criteria  
16 and really determine at the very start how the process is  
17 going to work, and what's important to them and perhaps  
18 what's not so important.

19           CHAIRPERSON MOULTON-PATTERSON: Wouldn't it be  
20 less complicated just, you know -- with respect to you,  
21 Ms. Tobias, but couldn't we just say ties will be decided  
22 by the Board? We are a public board. That's why we were  
23 appointed. We represent different sections. I don't  
24 understand why that can't just be said.

25           CHIEF COUNSEL TOBIAS: It can. I think that's

1 why I said it's the legal office's opinion that what  
2 probably would be most fair and with as much information  
3 as possible to applicants is to know how the Board might  
4 make that decision. The way we've done in the past has  
5 either been a random -- as far as I remember, is either a  
6 random approach or I think a lot of times the Board has  
7 basically taken the remaining money and tried to make sure  
8 that the applicants who are tied at the bottom have gotten  
9 something.

10 Sometimes that works and sometimes it doesn't, if  
11 they can't, you know, make enough of a project out of that  
12 money.

13 I think what the Board might have trouble with is  
14 when they get to that is how to choose among, you know,  
15 two applicants at the bottom as to A or B whether who's  
16 going to get that money.

17 CHAIRPERSON LLOYD: Senator Roberti.

18 BOARD MEMBER ROBERTI: We're not talking about a  
19 situation where we're starting from the beginning. We are  
20 talking about now the very fine tuning of splitting a  
21 hair. And as long as we're doing it publicly, making a  
22 hopefully rational decision as to how we reach what we  
23 reach, I may want to weigh, because of my articulating  
24 feelings, one of the criteria much stronger than Mr. Eaton  
25 who wants to weigh another one and we just voted it out.

1                   I think counsel's position, and I respect her  
2 caution, but I think counsel's position is really based  
3 somewhat on the premise that we're starting from the  
4 beginning. We aren't. So I feel safe that we can decide  
5 a tie as long as we can justify it upfront, based on,  
6 well, I want to stress criterion A because of the  
7 conditions that existed on September, whatever the day,  
8 the 13th, 2001, and, you know, I feel comfortable in doing  
9 that.

10                  CHAIRPERSON MOULTON-PATTERSON: Thank you,  
11 Senator.

12                  SUPERVISING WASTE MANAGEMENT ENGINEER GILDART:  
13 Excuse me.

14                  CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

15                  BOARD MEMBER JONES: Thank you. I appreciate  
16 that, and I support that 100 percent. We've sat at this  
17 dais before on a couple of grants and really looked at  
18 them and asked an applicant or told an applicant that we  
19 thought it needed to be reduced a little bit to free up  
20 money to take care of four or five others. And it's funny  
21 because really what we're talking about here is who has  
22 the choice, us or them.

23                  But that's how that broke down just a minute ago.  
24 So I think we get paid to make that choice. So I think it  
25 needs to come up here and, you know, we'll do a little

1 fandangling and see what we can do and hopefully get the  
2 money to a few more people than we could have.

3 I don't support taking -- I mean as long as  
4 they're numbered, they need to come in numbered, we keep  
5 them in that order, and then if there's four at 70, then  
6 those are the ones we play with, not 71, because 71 scored  
7 higher. So I mean under that, I have no problem.

8 One of the things I'd like to bring up, Madam  
9 Chair, is I talked to Jerry Hart a little bit about some  
10 stuff he's putting together for the State buy-recycled  
11 program, that may be helpful for Admin. In fact, he may  
12 be working with Admin on that. And, Jerry, I don't mean  
13 to steal your thunder, but I thought it was a heck of an  
14 idea.

15 That he's actually got a little matrix to not  
16 only -- for people that say they've got a green  
17 procurement program, but identify what they're doing. It  
18 might be worth working with Mr. Hart, and, Jerry, I really  
19 apologize if you were going to bring this forward, but it  
20 is a heck of an idea and it needs to be looked at. And he  
21 just caught me as we were walking in here.

22 And the other thing is, I think all of the deputy  
23 directors are kind of responsible for their own grants and  
24 stuff. And as part of this we may want to say they can be  
25 responsible for the grants, but Admin has to look over

1   them and make sure that the criteria meets what the Board  
2   wants or something like that. I guess it's a delegated  
3   authority of Mr. Leary. But, you know, Admin is getting  
4   beefed that people aren't following the criteria, but it's  
5   not Admin that's got control over those grants. It's  
6   those individual departments.

7               So, you know, and I have no problem with beefing  
8   them out, but I'm just saying if we're going to, we ought  
9   to say that they've got either some kind of an  
10   administrative check off that it's met all the criteria,  
11   and that might -- I mean, Mr. Leary, I'm not trying to get  
12   into your business. I mean this is your decision to make,  
13   but it would be more consistent for this Board, because we  
14   see grants and contracts from every division. And so  
15   there is not one person to hold accountable for that  
16   structure.

17              And if we said that Admin had to alternately make  
18   sure it went through, then that would take care of your  
19   issue, Senator, and, I think, some of ours. And I think  
20   it was just something that never came up, because I always  
21   assumed, in fact, I said it I think at the briefing, there  
22   was something I thought was consistent and it didn't go  
23   through.

24              BOARD MEMBER ROBERTI: Madam Chair.

25              CHAIRPERSON MOULTON-PATTERSON: Mr. Medina then



1 Senator Roberti.

2 BOARD MEMBER MEDINA: I agree with the previous  
3 speakers. And if we have to write in the words, "coin  
4 toss by board members," so be it.

5 (Laughter.)

6 BOARD MEMBER MEDINA: Actually, I had a minor  
7 change to the resolution on the last page where it says,  
8 "And the Board shall make the determination of which  
9 applicant shall receive the award as long as..." I wanted  
10 to change the word, "as long as" rather ambiguous, I  
11 wanted to change that to, "when staff has made the  
12 determination."

13 And in regards to the resolution itself, you  
14 know, I'm very happy to see this resolution that includes  
15 environmental justice, indian tribes, the green  
16 procurement language and all the other language in it.  
17 It's a very good resolution, I'd be happy to move it at  
18 the appropriate time.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you.  
20 Senator.

21 BOARD MEMBER ROBERTI: Yes. Madam Chair, I'd  
22 like to return to something that was of concern to me  
23 during the morning session. And that is my concern that  
24 in our desire to have a hands-off approach in order to  
25 structure fairness, we have to be very careful that we

1 don't abdicate our power as a board to the staff.

2               Frankly, I cannot emphasize my distress over the  
3 fact that for two years on grants I have been voting  
4 believing the staff has been implementing our policy when,  
5 in effect, and I know everybody may not agree with me on  
6 this, when, in effect, staff has obviously been  
7 implementing its policy.

8               And for two years of not having a green  
9 procurement policy, when I can't think of any discussion  
10 we had that was more clear, more concise, more direct to  
11 the staff and then we come here and we are told that we  
12 decided not to do it.

13              We decided not to even inform you that we weren't  
14 doing it, and that there was a problem. It goes to the  
15 old adage that, you know, board members come and board  
16 members go, but the staff is here forever.

17              And that's a cute one we talk about, but when  
18 we're talking about the public policy of the State, it's  
19 unconscionable. I've never lectured the staff before  
20 because I have the highest degree of respect for their  
21 expertise, but this was unconscionable. It was based on  
22 the premise that board members come and board members go  
23 and the staff is here forever and we're not going to  
24 implement it and we're not going to tell you about it  
25 either.

1           That's why Mr. Eaton's position on the tie vote  
2 is very, very important. But I would go even further, and  
3 I would commend to the staff -- to the Board Members  
4 thinking about it that once in a while we actually, I hate  
5 to say it, ought to do the scoring ourselves. Maybe every  
6 six months take one of our projects and do the scoring  
7 with the help of staff, with the help of counsel. It's  
8 going to bog us down a little bit, but there's no way to  
9 supervise our own staff unless we know what they're doing,  
10 unless we know what criteria they are using.

11           And, obviously, I don't have a clue, because I  
12 thought for two years the green purchase power was being  
13 implemented and I find out it wasn't.

14           And then there are just disagreements that  
15 reasonable people come to when you talk about a public  
16 policy itself. For example, to make it very, very  
17 simplistic, we establish a directive that everything has  
18 to be on blue paper. And so then the issue is, yeah, but  
19 it was turquoise paper.

20           I'm being simple, but I'm trying to make a point.  
21 Some people will say well, that's clearly blue, and others  
22 will say, no, that's green or something in between.  
23 Reasonable people can disagree. It doesn't mean they're  
24 not trying to implement the policy. It's just that it's  
25 implemented differently by reasonable people seeing blue,

1 turquoise and green differently.

2                   How do we know that, and how do we know how staff  
3 is implementing the program, unless we, at times, do it  
4 ourself?

5                   And I know it will bog us down, and I don't look  
6 at that excitedly, because it's an area of power that I  
7 necessarily don't want to engage in. But right now I  
8 submit, I'm speaking for myself, after nearly three years  
9 on this Board, I think I'm kept in the dark. And I don't  
10 say that with anger, I say it because it's just the way  
11 the bureaucracy works.

12                  On such a major policy where we spent the better  
13 part of one day discussing it, one session, and when we  
14 just decided not to do it, there was a problem and nobody  
15 bothered to come and tell us about it either on something  
16 that goes to the heart of what this Board does,  
17 procurement.

18                  I think we have to relook, and this is a switch  
19 in my position from last week when I talked to counsel and  
20 said no, I don't want to do anymore micro-managing. But  
21 the fact is I think we've got to micro-manage because if  
22 we don't micro-manage, staff is going to micro-manage for  
23 us, and we will truly be what bureaucracy wants boards to  
24 be and that is a rubber stamp.

25                  CHAIRPERSON MOULTON-PATTERSON: Thank you.

1           DEPUTY DIRECTOR JORDAN:  Chairman?

2           CHAIRPERSON MOULTON-PATTERSON:  Yes, Ms. Jordan.

3           DEPUTY DIRECTOR JORDAN:  Can I address the  
4  Senator with regards to raising this issue.

5           I understand what you're saying.  I would like to  
6  clarify that staff have implemented the '99 requirements.  
7  As I mentioned before, that particular bullet talks about  
8  grant recipients, that's after the award.

9           It has been incorporated into the terms and  
10 conditions of the grant agreements that they follow these  
11 procedures.  What hasn't been done is it's not been put  
12 into all of the grants as far as the actual screening  
13 criteria, because they're not recipients at that point.

14          BOARD MEMBER ROBERTI:  I understand that and I  
15 appreciate that.  So I give staff credit for trying to do  
16 something along the lines of what we talked about.

17          But if my recollection to date is even remotely  
18 clear, and I think it is, we were talking about the grant  
19 as it was before it was to be awarded not after the fact,  
20 and not a language that exhorts the recipient or even goes  
21 further than and exhortation to do well.

22          And I think we were talking about the award  
23 itself, a priori.  And I haven't reviewed the text of the  
24 discussion of December of 1999, but I have a hunch that if  
25 we do review it, we will find that it was clear we were

1 talking about the award itself and not something after the  
2 fact.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you,  
4 Senator.

5 Mr. Paparian.

6 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.  
7 I wanted to actually get back to something Mr. Eaton  
8 brought up initially and I'll just ask it in a different  
9 way I guess.

10 We have references in here to scoring criteria  
11 and evaluation process. And I guess the question is is  
12 what we're voting on today the scoring evaluation and the  
13 criteria process or is there a different scoring criteria  
14 and evaluation process for each grant that comes forward,  
15 I guess that's to counsel or to Admin.

16 DEPUTY DIRECTOR JORDAN: Each of the grant  
17 programs has different preference criteria. What we have  
18 attempted to standardize over the years is the actual  
19 general review criteria. This item is specifically  
20 talking about the scoring criteria, whether it be general  
21 or preference points, and the actual evaluation process  
22 that's set out in determining how to review those  
23 applications an award them.

24 BOARD MEMBER PAPARIAN: Okay, but every time a  
25 grant program, if we have the playground grants for this

1 year, will we have a new scoring criteria and evaluation  
2 process brought to the Board before that goes forward?

3 DEPUTY DIRECTOR JORDAN: Each of them are brought  
4 before the Board annually.

5 BOARD MEMBER PAPARIAN: Each scoring criteria and  
6 evaluation process?

7 DEPUTY DIRECTOR JORDAN: Yes.

8 CHAIRPERSON MOULTON-PATTERSON: But I thought you  
9 said the general.

10 BOARD MEMBER EATON: But part of the problem has  
11 been, and each of you as board members at one time have  
12 referenced it, with regard to why you can't change the  
13 criteria, this is the general criteria by which all grants  
14 are governed by. Then each of them, as we get into  
15 certain issues, we get into the preference points.

16 So if you look at it, this is the master mould,  
17 if you will. So when they bring the criteria together in  
18 individual grants, it has this master mould, and then what  
19 we're able to do is tinker with the specifics of the  
20 preferences that you might have, based upon the particular  
21 criteria.

22 It could be green procurement, it could be  
23 environmental justice, all those kinds of things, but the  
24 master mould as to how you look at things are done, when  
25 that's brought forward, you can't even determine when the

1 tie is going to be, because you don't even know that  
2 you'll have a tie.

3               So you set it up here as a master, sort of,  
4 theme. And that's what this is about. And so when we,  
5 three months from now, say we didn't know that's what  
6 we're voting on, that's what you're voting on, you're  
7 voting on the master plan, if you would, so to speak.

8               And that's why this is so important in the sense  
9 of how you set your direction for the staff, and so that  
10 there cannot be these differences with regard to the  
11 general criteria. There can be differences with  
12 specifics, because that's based upon some of the subject  
13 matter of the individual grants. But, yes, obviously  
14 they've got to come back, but as you look at the two boxes  
15 always the first box is always the same, because we have  
16 approved a general criteria which is just what we're doing  
17 right now.

18              That will never change, because they'll say we  
19 can't change it three months from now, because we did the  
20 whole master for the grant cycle, that's what Senator  
21 Roberti was trying to do a month or two ago. And they  
22 said you couldn't do it because of the criteria generally  
23 for all the grants. So this is it that -- that's why this  
24 mould becomes kind of an important footprint, so to speak,  
25 for the rest of us.



1                   CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.

2     Eaton. We do have one speaker.

3                   Skip Lacaze City of San Jose.

4                   MR. LACAZE: Good afternoon. My name is skip

5     Lacaze with the City of San Jose. The City would like to

6     support the revised green procurement criterion for the

7     value of 15 percent of the total points. I'm not offering

8     a position on the entire item. The City of San Jose has

9     just completed approval of a new council policy on

10    environmentally preferable procurement.

11                  This policy was put on the purchasing division's

12    workplan for the year in great part because of the

13    existence of your board's policy on green procurement as a

14    requirement for grants.

15                  The policy built on our existing 1990 policy,

16    which because of the five-year rule, did not satisfy your

17    criterion. I have to admit that when I first saw this

18    last year too late to deal with it, I was irritated.

19    However, the fact that we had to open it up and look at it

20    again has given us a much broader and deeper policy, has

21    given us an opportunity to take this subject before the

22    council, achieving unanimous consent both at the

23    environment committee and at the full council to proceed.

24                  The ongoing criterion just in your own grants

25    will give us a significant amount of strength within the

1 city bureaucracy to continue to push for strong  
2 implementation of the environmentally preferable  
3 procurement policy, which could fade if there was no  
4 penalty attached to it.

5           So I'd simply like to restate our support and  
6 inform you that the Solid Waste Commission of Santa Clara  
7 County has adopted our policy as a model and recommended  
8 it to all the cities in Santa Clara County and to the  
9 Board of Supervisors. And, in part, because of the  
10 existence of your 15 percent criterion, I strongly suspect  
11 that the majority, if not all, of those jurisdictions will  
12 implement some policy.

13           Thank you.

14           CHAIRPERSON MOULTON-PATTERSON: Thank you very  
15 much, and please thank the City of San Jose for what  
16 they're doing.

17           Mr. Eaton, do you have some -- we only --

18           BOARD MEMBER EATON: I have some alternative  
19 language with regard to Subsection E and tying scores.

20           And I'm going off of the Agenda Item number 7,  
21 revised, which was recently handed out, a two-page  
22 document, just one page.

23           I think Mr. Paparian's office has the single  
24 sheet of paper that I have and not the double one handed  
25 out.

1                   Anyway, the language would read Subpart E, Ties  
2 And Scores, "Where grant requests among the applicants  
3 with tie scores exceed funding availability, the ties  
4 shall be brought forward to the Board at the time the  
5 award for the grants are to be made in the agenda item,  
6 and the Board shall, to the extent possible, determine how  
7 those ties shall be resolved from the most fair and  
8 equitable manner to the parties."

9                   CHAIRPERSON MOULTON-PATTERSON: That sounds fine.

10                  Mr. Medina, you had said before you wanted to  
11 make the motion. Would that language be acceptable to  
12 you?

13                  BOARD MEMBER MEDINA: Yes, it would.

14                  CHAIRPERSON MOULTON-PATTERSON: Okay, Mr. Medina  
15 makes the motion.

16                  BOARD MEMBER PAPARIAN: Madam Chair?

17                  CHAIRPERSON MOULTON-PATTERSON: Yes.

18                  BOARD MEMBER PAPARIAN: Just to clarify, so we'll  
19 be working off the version of the resolution that was  
20 handed out with a lot of strikeouts and so forth with the  
21 substitution of the E that Mr. Eaton stated.

22                  CHAIRPERSON MOULTON-PATTERSON: Right. Did we  
23 get that or do we need to repeat that?

24                  DEPUTY DIRECTOR JORDAN: Could we have that  
25 repeated, please.

1                   CHAIRPERSON MOULTON-PATTERSON:   Sure E, Ties And  
2 Scores -- could you just read from this, Mr. Eaton?

3                   BOARD MEMBER EATON:    Sure.

4                   CHAIRPERSON MOULTON-PATTERSON:   "Where grant  
5 requests among applicants with tie scores exceed funding  
6 availability, the tie shall be brought forward to the  
7 Board in an agenda item and the Board shall make the  
8 determination of which applicant shall receive the award,  
9 assuming the staff has made the determination that the  
10 scaling down of the proposed projects resulting in  
11 decreased grant requests could not be accomplished  
12 successfully."

13                  BOARD MEMBER EATON:    That's the old language.  
14 That's the language that needed to be revised.

15                  Perhaps, the court reporter could --

16                  I'll read it again.

17                  CHAIRPERSON MOULTON-PATTERSON:   I apologize I had  
18 it wrong.

19                  BOARD MEMBER EATON:    No, that's fine.   What we're  
20 doing is we're going to strike all of Subsection E.  It  
21 gets crazy when we have 15 million pieces of paper.

22                  Let's work off what Mr. Paparian had mentioned  
23 was the two-page document we just handed out with those  
24 changes, correct?  And we all agree that the change with C  
25 on green procurement were okay?

1                   CHAIRPERSON MOULTON-PATTERSON: Right.

2                   BOARD MEMBER EATON: And with D the strikeouts in  
3 the subsequent language was agreed to. Just work off the  
4 two page document right here and that may be the easiest  
5 way to work, because I think that's the proper way so we  
6 don't try to incorporate two pieces of paper, just one.  
7 Then we get to Subsection E.

8                   And what we should do with Subsection E is strike  
9 the entire subsection E with the exception of that, "Be it  
10 further resolved," that should continue to stay.

11                  So the new subsection which would read, "Ties And  
12 Scores," would read, "When grant requests among the  
13 applicants with tie scores exceed funding availability,  
14 the tie shall be brought forward to the Board at the time  
15 the awards are made in an agenda item and that the Board  
16 shall make a determination as to ties as to which  
17 applicant, if any, shall receive an award or portion of an  
18 award in a manner that is both fair and equitable in order  
19 to resolve the issue of the tie score."

20                  CHAIRPERSON MOULTON-PATTERSON: Thank you. So we  
21 have a motion by Mr. Medina for Resolution 2001-464,  
22 revised, with the new language Mr. Eaton just spoke into  
23 the record, and did anyone second it?

24                  BOARD MEMBER JONES: I'll second it.

25                  CHAIRPERSON MOULTON-PATTERSON: Seconded by Mr.

1 Jones.

2 BOARD MEMBER JONES: Just one question to the  
3 maker of the motion, Mr. Medina, can the idea about having  
4 Admin make sure that all those criterion meets our  
5 criteria approval of the Executive Directors, is that  
6 acceptable?

7 BOARD MEMBER MEDINA: That's correct.

8 BOARD MEMBER JONES: Because right now it's in  
9 every department. So they're going to have a more, yes or  
10 no.

11 DEPUTY DIRECTOR JORDAN: Board Member Jones, the  
12 Administration and Finance Division, Grants Administration  
13 we currently work with each of the programs and we do  
14 review the actual scoring criteria and evaluation process.  
15 We also will sit on many of the panels with regards to  
16 looking at the actual awards.

17 BOARD MEMBER JONES: What I'm asking the maker of  
18 the motion is to make sure that you not only review it,  
19 but if they don't follow our board criteria, you deny it.

20 DEPUTY DIRECTOR JORDAN: Okay.

21 CHAIRPERSON MOULTON-PATTERSON: Okay, please call  
22 the roll.

23 SECRETARY FARRELL: Eaton?

24 BOARD MEMBER EATON: Aye.

25 SECRETARY FARRELL: Jones?

1 BOARD MEMBER JONES: Aye.  
2 SECRETARY FARRELL: Medina?  
3 BOARD MEMBER MEDINA: Aye.  
4 SECRETARY FARRELL: Paparian?  
5 BOARD MEMBER PAPARIAN: Aye.  
6 SECRETARY FARRELL: Roberti?  
7 BOARD MEMBER ROBERTI: Aye.  
8 SECRETARY FARRELL: Moulton-Patterson?  
9 CHAIRPERSON MOULTON-PATTERSON: Aye.  
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